

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

SHAWN RUSSELL SORENSEN, Movant, vs. UNITED STATES OF AMERICA, Respondent.	4:19-CV-04190-KES ORDER GRANTING MOVANT'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL
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Movant, Shawn Russell Sorensen, filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Docket 1. This court entered judgment in favor of respondent and did not grant Sorensen a certificate of appealability. Dockets 66, 67. Sorensen has filed a notice of appeal. Docket 68. Sorensen moves for leave to proceed in forma pauperis on appeal and has included a financial affidavit. Docket 69.

The Eighth Circuit historically has looked to district courts to rule on in forma pauperis motions for appeal and has held that the filing-fee provisions of the PLRA do not apply to habeas corpus actions. *Malave v. Hedrick*, 271 F.3d 1139, 1140 (8th Cir. 2001) (per curiam). To determine whether a habeas petitioner qualifies for in forma pauperis status, the court need only assess (1) whether the petitioner can afford to pay the full filing fee, and (2) whether the petitioner's appeal is taken in "good faith." 28 U.S.C. § 1915(a)(1), (3).

Sorensen's appeal appears to be taken in good faith. Based on the information in Sorensen's financial affidavit, this court finds that Sorensen has insufficient funds to pay the \$505.00 appellate filing fee. See Docket 69. Thus, Sorensen is granted leave to proceed in forma pauperis on appeal.

IT IS ORDERED:

1. That Sorensen's motion for leave to proceed in forma pauperis on appeal (Docket 69) is granted.

Dated March 28, 2023.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE